UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/239/Add.3
1 February 1995

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Eleventh periodic reports of States parties due in 1993

Addendum

NEW ZEALAND*

[19 December 1994]

---

* The present report constitutes the tenth and eleventh periodic reports of New Zealand, due on 22 December 1991 and 22 December 1993 respectively, combined in a single document. (The annexes may be consulted in the files of the Centre for Human Rights.) For the eighth and ninth periodic reports submitted by the Government of New Zealand and the summary records of the meetings of the Committee at which those reports were considered, see:

Eighth and ninth periodic reports - CERD/C/184/Add.5 (CERD/C/SR.877-878).

The information submitted by New Zealand in accordance with the consolidated guidelines concerning the initial part of reports of States parties is contained in the core document HRI/CORE/1/Add.33.

GE.95-15298 (E)

CONTENTS

	Paragraphs	Page
Introduction	1 - 2	3
I. GENERAL	3	3
II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION	4 - 178	3
Article 2	12 - 104	8
Article 3	105 - 110	30
Article 4	111 - 119	31
Article 5	120 - 144	32
Article 6	145 - 155	38
Article 7	156 - 178	40
Niue and Tokelau	179 - 185	45
Glossary of Maori terms		46
List of annexes		47

Introduction

1. This is New Zealand's tenth and eleventh consolidated periodic report to the Committee and covers the period 1 January 1990 to 31 December 1993. It deals with the legislative, judicial, administrative or other measures which have been adopted during the period under review and which give effect to the provisions of the Convention. The report should be read in conjunction with New Zealand's previous reports.

2. The report has been prepared in accordance with the general guidelines adopted by the Committee on 9 April 1980, as revised on 19 March 1993, incorporating also the additional guidelines for the implementation of article 7 adopted on 17 March 1982. Developments in Niue and Tokelau, to which the obligations accepted by New Zealand under the Convention also extend, are covered in this report.

I. GENERAL

3. Reference should be made to the core document on New Zealand (HRI/CORE/1/Add.33) submitted on 28 September 1993 in accordance with the guidelines contained in document HRI/1991/1.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Government policy and general legal framework

4. The commitment of the New Zealand Government to the elimination of racial discrimination, which has been illustrated in New Zealand's previous reports to the Committee, remained unchanged throughout the period under review. The National Government which took office after elections in late 1990 has maintained policies to oppose discrimination based on colour, religion, race, ethnic or national origin, reflecting the realities of New Zealand's multiracial and multi-ethnic society. New Zealand law specifically prohibits racial discrimination, and there continues to be a strong and active Government commitment to the promotion of racial harmony.

5. Recognition has continued to grow of the pre-eminent place of the relationship between Maori and non-Maori people in the broad picture of race relations in New Zealand. The special place of Maori as tangata whenua (indigenous people, people of the land) is acknowledged. With the Treaty of Waitangi gaining increased status as the founding document of New Zealand, there is greater optimism that Maori grievances stemming from injustices of the past can be redressed, providing in turn the basis for economic, social and cultural equality for Maori of the present and future. The ways in which the Government has sought to address these grievances in the period under review are set out in detail further on in this report.

6. Debate on the nature of biculturalism in New Zealand continues to be an important issue for New Zealanders in all walks of life. At the same time, and especially since the introduction of immigration policies which have resulted in the arrival of increasing numbers of new New Zealanders from non-traditional sources, a lively debate goes on about the future of New Zealand as a multicultural society. Biculturalism and multiculturalism

are not seen as being incompatible. The Government has committed resources to resolving the challenges presented by this complex situation, but it does not claim to have completed the task.

7. The Race Relations Act 1971 and the Human Rights Commission Act 1977 have continued to provide the legal framework for the elimination of racial discrimination in New Zealand during the reporting period. The comprehensive review of human rights legislation referred to in the last report culminated in the enactment of the Human Rights Act 1993, amalgamating the provisions of both the other Acts and extending them in some respects. Although this legislation does not enter into force until early 1994, references to it have been included in the report where relevant to the Committee's guidelines.

8. New Zealand's previous report contained extensive information about efforts to improve the situation of the Maori population, especially with regard to developments in relation to the Treaty of Waitangi. That remains the primary focus of this report, reflecting the special place of the tangata whenua, and the potential for racial harmony to be threatened by a failure to achieve greater equality. In addition to updating that material, and in response to an interest expressed by the Committee during the discussion of the last report, the present report also addresses in more detail the situation of other ethnic minority groups within New Zealand society.

9. The following observation made in a review of the new Ethnic Affairs Service (about which information is included elsewhere) illustrates further the general background to the report:

> "New Zealand is moving towards a society which recognizes the strength of social and economic diversity. However, the movement requires active commitment from a range of sectors, as the move towards a more diverse economic system has demonstrated. Minority ethnic groups can potentially contribute significantly towards the development of a society which is able to celebrate its cultural diversity whilst maintaining a national identity. However, there are social, cultural, linguistic, racial, and economic barriers which currently restrict the impact of that contribution."

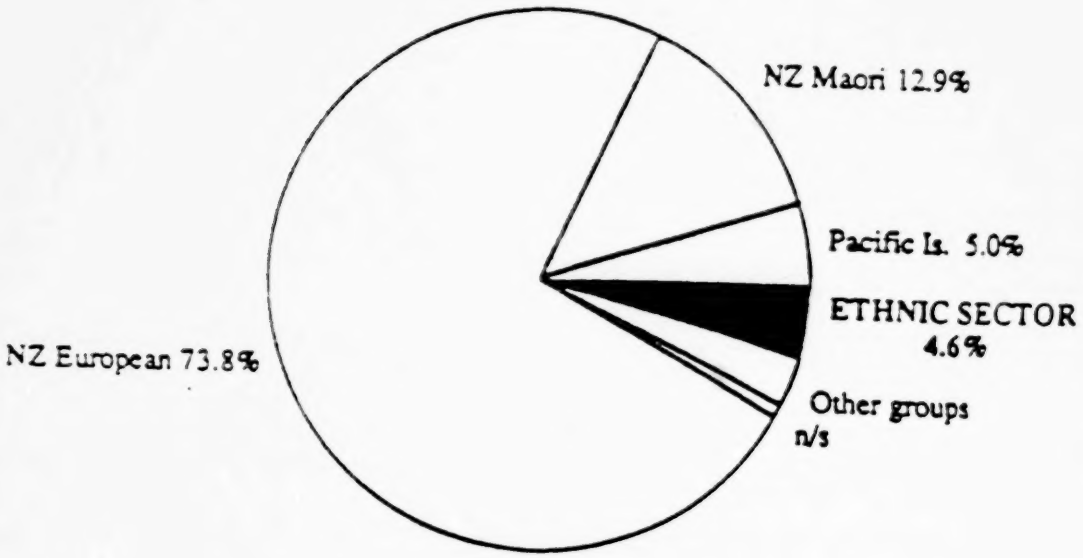
Information on policies adopted by the Government aimed at removing those barriers is provided at relevant points throughout the report.

Ethnic characteristics of the New Zealand population

10. A statistical and qualitative description of the ethnic characteristics of the New Zealand population, taken from the 1991 Census, is given in paragraphs 5-14 of the core document. New methodology used by the Department of Statistics in the 1991 Census is contributing to a clearer picture of New Zealand's ethnic diversity, and the 1996 Census should give greater consistency of results, based on the same methodology. The Committee may also find it helpful to refer to a report prepared by the Department of Internal Affairs in 1993, entitled "Ethnic Groups in New Zealand: a Statistical Profile", which is attached as annex 1. This contains information on

socio-economic factors as well as statistical material. For ease of reference, two key tables showing (a) ethnicity in New Zealand's resident population, and (b) ethnic sector groups in the New Zealand population are set out below. The difference between figures given for the size of the "New Zealand European" group in the core document (79.5 per cent) and in the statistical profile (73.8 per cent) is primarily attributable to a methodological difference.

ETHNICITY IN NZ RESIDENT POPULATION (n=3.374 million)



11. In addition, for a more detailed picture of recent immigration patterns, a table showing permanent and long-term arrivals to New Zealand is also set out below. (Information on immigration policies is contained in the report under article 5.)

ETHNIC SECTOR GROUPS IN THE NEW ZEALAND POPULATION

Ethnic Group	Population	% of NZ Resident Population	% of NZ Ethnic Population***
Chinese	44 793	1.33	29
Indian	30 609	0.91	20
Dutch	24 733	0.73	16
Filipino	4 918	0.14	3
Cambodian	4 318	0.13	3
Middle Eastern	3 441	0.10	2
Japanese	2 970	0.09	2
Yugoslavian	2 869	0.09	2
Vietnamese	2 675	0.08	2
Sri Lankan	2 631	0.08	2
Greek	2 098	0.06	1
Polish	1 673	0.05	1
Italian	1 541	0.05	1
African	1 449	0.04	1
Latin American	1 449	0.04	1
Other SE Asian	4 731	0.14	3
Other Asian	1 561	0.05	1
Asian (undefined)	500	0.01	
Other European*	14 942	0.44	9
Other groups**	1 500	0.05	1
TOTAL	155 401	4.6	100
ETHNIC SECTOR	155 500 (approx.)		

* Estimated as the sum of population of other groups such as German, French, Swiss, Danish, Russian from Europe, Eastern Europe and Scandinavia which are not otherwise defined.

** Estimated as the sum of population of small ethnic groups not otherwise defined.

*** Numbers in this column are rounded and small values are approximate.

Approximate total value

Because the total shown above has been formed from the sum of a number of items, and these items were based on full counts (see methodology) the value it represents should be regarded as approximately 155,500. The actual size of what we have defined as the Ethnic Sector would be between 155,000 and 156,000.

PERMANENT AND LONG TERM ARRIVALS 1/
By Country of Last Permanent Residence
Year Ended 31 March 1989-93

Country of last permanent residence	March year				
	1989	1990	1991	1992	1993
Australia	11 517	15 417	18 835	13 189	12 107
Cambodia	16	13	8	6	6
Canada	762	835	1 066	943	836
China, People's Republic of	384	398	523	648	775
Fiji	2 295	1 962	1 336	1 064	1 046
France	135	130	152	194	179
Germany	510	475	527	398	475
Hong Kong	1 081	2 029	2 492	3 331	2 780
India	245	246	260	297	375
Indonesia	301	231	261	288	321
Ireland	131	53	93	101	93
Japan	1 335	1 665	2 054	2 218	2 460
Korea, Republic of	288	395	489	668	1 430
Lao People's Democratic Republic	2	1	1	2	6
Malaysia	1 085	1 330	1 273	1 207	1 967
Netherlands	871	716	659	496	597
Philippines	258	371	402	374	270
Samoa, Independent State of Western	1 857	942	1 168	714	805
Singapore	933	1 287	398	401	469
Sri Lanka	72	88	138	79	124
Sweden	162	161	131	182	146
Switzerland	195	212	237	270	277
Tonga	343	361	316	264	383
United Kingdom	10 843	10 504	12 583	11 227	10 947
United States of America	2 062	2 243	2 330	2 063	2 378
Vietnam	105	719	218	298	80
Others	8 445	9 217	9 138	8 088	8 230
TOTAL	46 233	52 001	57 088	49 010	49 562

1/ Overseas visitors who arrive in New Zealand intending to stay for a period of 12 months or more (or permanently), plus New Zealand residents returning after an absence of 12 months or more.

Article 2

Race Relations Act 1971 and Human Rights Commission Act 1977

12. Reference should be made to earlier New Zealand reports for information on these two Acts. As noted, both Acts were repealed towards the end of the reporting period and replaced by the Human Rights Act 1993, which will enter into force on 1 February 1994 (see also below). The Office of the Race Relations Conciliator remains the chief organization with responsibility for affirming and promoting racial equality in New Zealand. Its work is supplemented in some areas by the Human Rights Commission (of which the Conciliator is also a member).

13. Annual reports of the Human Rights Commission and the Race Relations Conciliator are issued in a single document each year, and contain detailed information about their programmes and the complaints received. Reports for the years ended 30 June 1990, 1991, 1992 and 1993 are attached as annexes 2, 3, 4 and 5. Information on cases handled during the reporting period, and on procedures for dealing with them, is also included in this report where relevant.

New Zealand Bill of Rights Act 1990

14. Reference should be made to New Zealand's previous reports for background to the development of this legislation, and to the core document. In Part II of the Act, where the civil and political rights affirmed by it are set out, section 19 provides:

> **"19. Freedom from discrimination** -
>
> (1) Everyone has the right to freedom from discrimination on the ground of colour, race, ethnic or national origins, sex, marital status, or religious or ethical belief.
>
> (2) Measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged because of colour, race, ethnic or national origins, sex, marital status, or religious or ethical belief do not constitute discrimination."

Section 20 of the Act provides:

> **"20. Rights of Minorities** -
>
> A person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practise the religion, or to use the language, of that minority."

Employment Contracts Act 1991

15. The Employment Contracts Act 1991 offers workers an alternative avenue to section 5 of the Race Relations Act in the event of discrimination in the workplace. Any workers discriminated against in their employment by their

employer (or the employer's representative), on the basis of their race, may pursue a personal grievance under section 28 of the Act. Remedies available under the personal grievance provisions of the Act are reimbursement of wages, reinstatement and compensation. In its draft form, this legislation did not include people working on individual employment contracts in the grievance procedures. The Race Relations Office made a submission to Parliament on this point, arguing that people from minority ethnic groups were already vulnerable in the workplace, without being excluded from the protection and remedy procedures offered against racial discrimination in the workplace. Access to the grievance procedures was thus extended to all workers as of right in the final form of the Act.

Human Rights Act 1993

16. From 1 February 1994, the Race Relations Act 1971 and the Human Rights Commission Act 1977 will be amalgamated in one anti-discrimination statute, the Human Rights Act 1993. This legislation grew out of the comprehensive review of New Zealand's human rights legislation referred to in the previous report. The long title of the new Act is "to consolidate and amend the Race Relations Act 1971 and the Human Rights Commission Act 1977 and to provide better protection of human rights in New Zealand in general accordance with United Nations Covenants or Conventions on Human Rights".

17. A copy of the Human Rights Act is attached as annex 6. Sections 11 and 20 of the Act maintain the distinct identity of the Race Relations Conciliator. As a matter of course, the Conciliator is a member of the new Complaints Division of the Human Rights Commission in dealing with any complaints or investigations about discrimination on the grounds of race, colour or ethnic or national origin. The Act extends the jurisdiction of the Conciliator to include areas such as education (sect. 57), racial harassment (sect. 63), indirect discrimination (sect. 65), partnerships (sect. 36), organisations of employees or employers and professional and trade associations (sect. 37), qualifying bodies (sect. 38) and vocational training bodies (sect. 40). It provides the Conciliator with a wide educative role and contains new provisions relating to racial disharmony. These replace section 9 A of the Race Relations Act which was repealed in 1989, as explained in paragraph 16 of the previous report. Section 61 of the new Act makes it unlawful to make racially offensive statements about any group of persons in, or who may be coming to, New Zealand, either in a public place or in circumstances where the maker could reasonably have foreseen the statement's being publicly reported. The news media may report the statements if the reports accurately convey the intention of those making them. Under sections 5 and 77, a complaint under section 61 may be dealt with by means of an immediate public statement, rather than the usual procedure of investigation, conciliation, and possibly litigation. This provides the opportunity for certain incidents which are not suitable for an ongoing investigation to be taken up quickly and possibly put to rest. Section 61 is discussed further in the report under article 4 below.

18. Section 131 of the new Act makes it a criminal offence to incite racial disharmony, thus retaining the provisions of section 25 of the Race Relations Act. Any person who publishes, distributes or broadcasts material which is threatening, abusive, or insulting, or who uses such words in public, with the

intention of exciting hostility or ill-will against any group of people in New Zealand, or of bringing them into contempt or ridicule, on the ground of their colour, race or ethnic or national origins, is liable if convicted to up to three months' imprisonment or a fine of up to $7,000.

19. The terms and implementation of the new Human Rights Act will be discussed in more detail in New Zealand's next periodic report to the Committee.

Treaty of Waitangi

20. The Treaty of Waitangi has continued to provide the focus for the evolution of the relationship between Maori and non-Maori in New Zealand society - the relationship which is central to future race relations in the country. Its importance in the life of the nation was highlighted during 1990, which marked the one hundred and fiftieth anniversary of its signing. (Information on activities commemorating the anniversary is given in the report under article 7 below.) Both partners under the Treaty, viz. Maori and the Crown, see the Treaty and the process of developing its modern meaning through the ongoing work of the Waitangi Tribunal as the avenue by which grievances over past injustices towards the tangata whenua can be resolved and upon which, in turn, a fair balance between the cultures in New Zealand can be established for the future. The Government has made a commitment to settling all major claims under the Treaty by the end of the century, and this has become a major focus for developments during the period under review. While it is proving a complex and often lengthy process, significant progress has been made on this work since 1989, as discussed in following sections of the report.

21. In addition, the process whereby the principles of the Treaty are being incorporated into the New Zealand legal system has continued during the review period. An example is the case of Te Runanga o Muriwhenua v. Attorney-General [1990] 2 NZLR 641 ("the fisheries case"), which concerned the relationship between section 88 (2) of the Fisheries Act 1983 and the quota management system which was introduced in 1986 to manage commercial fishing rights. Section 88 (2) provided that nothing in the Fisheries Act should affect any Maori fishing rights. In its discussion on procedural issues, the Court of Appeal held that the Treaty is a living instrument which needs to be applied in the light of developing national circumstances. One of these circumstances might be the overfishing of traditional Maori fishing grounds which had created a situation not foreseen at the time of the Treaty. The Court's task would be to interpret and apply legislation taking into account the realities of life in present day New Zealand, in a balancing and adjusting exercise.

22. The "fisheries case" reflected ongoing considerations which took place concerning the manner in which Maori fisheries claims under the Treaty should be resolved. Extended negotiations both prior and subsequent to the Court of Appeal decision on procedural issues led to the adoption of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 which is discussed in depth further on in this section of the Report.

23. In Attorney-General v. New Zealand Maori Council [1991] 2 NZLR 129 ("the airwaves case"), the President of the Court of Appeal held at page 135:

> "What is clear, in my opinion, is that at the present day the Crown, as a Treaty partner, could not act in conformity with the Treaty or its principles without taking into account any relevant recommendations by the Waitangi Tribunal."

24. In the "airwaves case", Treaty considerations arose as a result of the disposal by the Crown of a large number of radio frequencies. The Crown acknowledged it was obliged to have regard to the Treaty but contended that, on the evidence, consideration had been given and the Government had adopted a policy reasonable in the light of it. This case and subsequent litigation arising out of the "airwaves" issue, centred on the extent to which the Treaty should have been and was in fact taken into consideration.

25. Information on important statutes reflecting Treaty of Waitangi principles - notably the Resource Management Act 1991, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, and Te Ture Whenua Maori Act 1993 (The Maori Land Act) is given in later paragraphs.

The Waitangi Tribunal

26. The Tribunal has continued to play a central role in the process of settling claims for the redress of grievances under the Treaty. Under section 81 of the Treaty of Waitangi Act 1975, the Minister of Maori Affairs is required to report annually to Parliament on progress being made on the implementation of the Tribunal's recommendations to the Crown. During the period under review, the Tribunal has reported on a further 14 claims on which it has made a total of 75 recommendations.

27. The 14 claims on which the Tribunal has made recommendations since the last report are:

1. Radio Frequencies 1990
2. Te Ngae 1990
3. Ngati Rangiteaorere 1990
4. Ngai Tahu 1991
5. Auckland Hospital Endowments 1991
6. Te Roroa 1992
7. Sylvia Park 1992
8. Ngai Tahu Sea Fisheries 1992
9. Mohaka River 1992
10. Pouakani 1993
11. Ngawha Geothermal Reserve 1993
12. Te Ika Whenua - Energy Assets 1993
13. Te Arawa Representative Geothermal Claims 1993
14. Maori Development Corporation 1993

28. In August 1993, Parliament enacted the Treaty of Waitangi Amendment Act. The purpose of this Act was to amend section 6 of the principal Act to prevent the Waitangi Tribunal from making any recommendations for a return to Maori ownership of any private land or the acquisition by the Crown of any private

land for the settlement of Treaty grievances. This Act was passed as a result of wide public concern which arose in 1992 when the Waitangi Tribunal, in its Te Roroa report, recommended that the Crown purchase "at whatever cost" certain private lands for the return to Maori ownership.

29. The Treaty of Waitangi Policy Unit in the Department of Justice has primary responsibility for implementing Waitangi Tribunal recommendations and also provides a negotiation system to assist in the settlement of Treaty grievances. At the request of claimants and if certain criteria are met, negotiations or mediation with Maori can occur in place of Waitangi Tribunal hearings. In late 1993 there were approximately 15 claims either on the negotiations register or in mediation although not all of these were under active consideration.

Restructuring of Maori Affairs Administration

30. The administration of the Maori Affairs portfolio was restructured in 1990, based on a refocusing of objectives by the new Government. The basis of the new policy was set out in "Ka Awatea", a strategy report on Maori education, health, employment and income. The report recommended the abolition of the Iwi Transition Agency and the Ministry of Maori Affairs. This was done, and in their place was established Te Puni Kokiri (the Ministry of Maori Development), a specialist agency for formulating Maori policy and monitoring the work of other government departments in catering for Maori needs.

31. A key feature of the new policy is mainstreaming, whereby a number of major existing government agencies now host the programmes formerly administered by a single agency (the Iwi Transition Agency). The policy aims to eliminate disparities between Maori and the general population by improving their access to, and the services from, all government agencies, rather than attempting to meet their needs primarily from within just one agency. In keeping with this administrative restructuring, the Runanga Iwi Act 1990 was repealed by the Runanga Iwi Act Repeal Act 1991. (Information on the Runanga Iwi Bill was included in the previous report although it had not been enacted at the time.) Consequently, mainstream agencies, rather than iwi, host the programmes of the former Department of Maori Affairs. Scope remains, however, for those agencies to enter into their own arrangements with iwi, where it has been determined that iwi are a more appropriate and effective channel for the delivery of services to Maori than the agencies themselves.

32. Te Puni Kokiri has as its main purpose to assist in developing an environment of opportunity and choice for tangata whenua, consistent with the Treaty of Waitangi. It focuses on improving Maori performance in education, employment, business development and health. Te Puni Kokiri provides specialized advice to the Government on the relationship between the Crown and Maori, recognized in the Treaty of Waitangi. It also advises on the effective use of resources by public and private sector organizations for the promotion of Maori development.

33. In general, the work programme of Te Puni Kokiri is designed to:

(a) Ensure that Maori gain equitable access to public and private resources;

(b) Ensure that Maori achieve parity in outcomes of services provided by Government;

(c) Support the ongoing development of the relationship between Maori and the Crown; and

(d) Assist in the development of opportunity and choice for Maori, Maori families, communities, organizations and institutions.

The Ministry of Pacific Island Affairs

34. Information on the establishment and original structure of the Ministry of Pacific Island Affairs has been included in previous reports to the Committee. Certain changes have been made during the review period, without however affecting its basic structure which comprises the Minister, the Minister's Advisory Council, and the Pacific Island Affairs Unit. On 1 July 1991, the Unit became a stand-alone Ministry of Pacific Island Affairs. It now has seven full-time staff in Wellington, and two in its branch office in Auckland. Membership of the Advisory Council has risen from 12 to 14, with the addition of a representative each from Tuvalu and Solomon Islands. The Ministry's role is unchanged since its establishment, that is, to promote the development of Pacific Island people in New Zealand in a way that recognizes and reflects Pacific Island cultural values and aspirations, so that Pacific Island people can participate and contribute fully to New Zealand's social, cultural and economic life. Its specific objectives remain to help accelerate the closure of the gaps between Pacific Islanders and others in education, employment, health, housing and economic affairs; and to foster the transmission of the cultural values important to the identity of the various Pacific Island people, and of New Zealand as a whole.

35. The Ministry has developed on a gradual, deliberate and educative course. Members of Pacific Island communities in New Zealand and public servants have played a large part in that process. Its structure reflects the continuing need for better communication between Pacific Island people and the Government. The Advisory Council has a central role in the work of the Ministry, with functions including:

(a) Providing advice and recommendations to the Minister on matters related to the social, cultural and economic life of Pacific Island people in New Zealand; and

(b) Promoting the dissemination of information from and to Pacific Island people in New Zealand.

36. The Ministry has a wide-ranging brief to monitor the impact of government policy on Pacific Island communities. Its current priorities are in the policy areas of education (particularly pre-school and tertiary), skills training and employment, small business development, health, and increasing

the participation of Pacific Island people in public decision-making. The Ministry operates a skills training programme and an employment placement service. It also supports programmes based in other government agencies, such as the Pacific Island Business Development Trust in the Department of Labour.

Establishment of the Ethnic Affairs Service

37. In April 1992, an Ethnic Affairs Service was established within the Department of Internal Affairs. This was based on the Government's recognition that, while a number of government agencies (in particular, Te Puni Kokiri and the Ministry of Pacific Island Affairs) existed to represent the interests of New Zealand's important Maori and Pacific Island minority communities, no specific point of contact existed for the more than 50 other ethnic groups represented in New Zealand society. The term "ethnic" was defined at the time of the establishment of the Service as "having different customs and culture from the prevalent culture and customs", which for practical purposes means the minority ethnic groups which are not covered by the responsibilities of the two Ministries mentioned above. Significant issues of concern to these smaller ethnic groups required increased government involvement, especially in view of the growing number of recent immigrants. Examples of such issues are language and interpretation difficulties; gaining recognition of overseas qualifications; maintenance of heritage and culture; isolation and mental stress, especially for homebound women; and familiarization with welfare and social services. In addition, racial discrimination itself may be a factor in the economic and social stress faced by some belonging to ethnic minority groups, especially those more recently arrived. A primary role for the Service is therefore to provide an avenue for the views of different communities to be represented to Government, and for government policies to be communicated to ethnic groups. The Service is also tasked with making immigrants feel welcome in New Zealand, so as to encourage their wider involvement in community life. In 1993, after a successful first year pilot stage, the continuation of the pilot scheme was approved until mid-1994.

38. The Service has a strong working relationship with the New Zealand Federation of Ethnic Councils. Established in 1989, the Federation brings together representatives from local ethnic councils throughout New Zealand, with a broad range of objectives related to the promotion and preservation of ethnic customs, languages, religions and cultures. In addition, the Federation monitors legislation and bylaws, promotes and supports equal rights and equal access and aims to raise consciousness amongst ethnic communities of the needs, aspirations and status of the tangata whenua. Contact with the Federation's network of communities enables the Service to maximize its effectiveness, notwithstanding its own small size.

39. The activities of the Service in its first 18 months include:

(a) Several publications: "Ethnic Groups in New Zealand: a Statistical Profile" (based on material from the 1991 Census); "Ethnic Groups in New Zealand: a Bibliography"; and "A National Ethnic Communities Directory" (in collaboration with the Race Relations Office);

(b) The issue of a quarterly newsletter, circulated to 800-900 ethnic organizations and community groups and 800-900 government and non-governmental organizations;

(c) Providing policy advice to the Government on a number of issues including the development of a National Languages Policy;

(d) Assisting minority ethnic communities, e.g. in developing new Ethnic Councils, and alerting groups about presenting submissions on draft legislation affecting their interests.

40. The four years from 1990 through 1993 have for the most part been a time of ongoing major change in the economic and social structures of New Zealand. The Government elected in 1990 maintained the momentum started by its predecessors towards overhauling the national economy with the aim of improving international competitiveness and reducing national debt levels. The ultimate goal of these policies is an enhanced standard of living for the whole community, based on sustained economic growth. In the short term, however, restructuring of the welfare state, which has been an important part of recent reforms, has placed new stresses upon those most vulnerable in the society. In the view of the Race Relations Conciliator (1991), ethnic minorities, especially Maori and Pacific Islanders, have suffered most. However, two aspects of government economic and social policy are designed to assist in addressing this problem: the commitment to maintain services and support for the most vulnerable groups in society; and the mainstreaming of service delivery to Maori (as outlined in para. 30 above).

41. New Zealand's previous reports to the Committee have included information on the position of Maori in the main economic and social sectors. Despite gradual improvements in some areas, disparities continue to be reflected in statistics on educational achievement, employment and income levels, health, crime, and State dependency. For example, statistics drawn from the 1991 Census show that the median annual gross income at that time was $11,001 for New Zealand Maori, compared with $14,598 for New Zealand Europeans. In line with the special place of Maori in New Zealand society as tangata whenua, and the wide range of measures currently being taken for Maori development, the first paragraphs of this section specifically address Maori issues. Then, in sections discussing employment, education, health, etc., information is given not only on measures targeting Maori, but also on those to improve the situation of people of other ethnic groups in New Zealand.

Maori economic and social development

42. As mentioned above, the Government has made the settlement of claims made under the Treaty of Waitangi Act 1975 a major focus of its policies for Maori development. Another important policy initiative has been the introduction of mainstreaming of the provision of services for Maori through all major government agencies.

43. Economic development is seen as a key to Maori social and cultural progress. An important aspect of government policy in Maori affairs has been to encourage economic self-sufficiency, in which the building up of the economic resource base of Maoridom through Treaty settlements plays a major

part. At a national conference to promote Maori commercial and economic development in 1993, attention was focused on the growing number of successful Maori commercial enterprises (for example, in fisheries, tourism, retailing, and forestry) and on ways of sustaining that growth.

The Resource Management Act 1991

44. In recent years there has been a heightened level of interest and activity among Maori on issues relating to environmental planning and management. Particular causes for this are the ongoing presentation of claims to the Waitangi Tribunal (outlined above) and the enactment of new legislation, of which the Resource Management Act 1991 is the central example.

45. This Act was passed after a comprehensive review of a large number of statutes (50-60 in total) relating to land use and resource management issues. It has been internationally recognized as innovative piece of legislation, with its guiding principle (sect. 5) being the sustainable management of natural and physical resources. Of particular significance in the present context, the Act legislatively recognizes concepts of indigenous culture, tradition and rights through its purposes and principles section. Section 8 requires that all decision makers and functionaries in relation to the sustainable management of natural and physical resources take into account the principles of the Treaty of Waitangi. The Act refers to Maori concepts of environmental management and, under section 6, all those involved in Resource Management Act issues are required to recognize and provide for five listed matters of national importance including "the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga".

46. The traditional environmental management system of Maori (as for indigenous peoples elsewhere) is based upon the concepts of interrelatedness and interdependence of all living things in the natural world. The central principle of traditional Maori environmental planning and management is the "holistic" principle - seeing the natural world in its entirety. Under section 7 of the Act, all decision makers and functionaries are required to have particular regard to, among other things, kaitiakitanga (defined as the exercise of guardianship including, in relation to a resource, the ethic of stewardship). Kaitiakitanga is a central concept in Maori environmental management. To Maori, kaitiakitanga is not a passive custodianship. Neither is it simply the exercise of traditional property rights. It includes an active exercise of power in a manner beneficial to the resource.

47. The Act also requires local authorities engaged in environmental planning and resource management to have regard for the plans of iwi and hapu in these areas. This has provided the impetus for a more proactive and independent approach by Maori to such issues. Te Puni Kokiri provides assistance for iwi in the planning and management of their natural resources, and both the Ministry for the Environment and the Department of Conservation have maintained and further developed the programmes for the promotion of Maori interests outlined in New Zealand's previous report.

48. Amongst Maori there has been the revival of traditional resource management and environmental practices alongside the creation of modern forms

of such practices. Acceptance of these practices has not been universal as some who are unfamiliar with what appear to be new forms of constraint find the approach being taken by Maori as challenging. Such resource management and environmental practices, the traditional variety of which is considered by some non-Maori as having been in abeyance for 150 years, are therefore difficult to implement. The Ministry for the Environment is monitoring the implementation of the Resource Management Act 1991 in this regard so as to ensure that structures necessary for the efficient transition are put in place. For reference, a copy of a bulletin published by Te Puni Kokiri entitled, "Mauriora Ki Te Ao: an Introduction to Environmental and Resource Management Planning" is attached as annex 7.

The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992

49. The adoption of this legislation marked a major milestone in the process of settlement of Maori claims under the Treaty of Waitangi, and in the development of a sound economic base for future generations of Maori. The Act gives effect to the Deed of Settlement signed by the Crown and Maori to settle Maori commercial fisheries claims. The "Sealords" settlement, as it is known, provided for the joint venture purchase by the Maori Fisheries Commission (and its subsidiary company, Aotearoa Fisheries Ltd.), and Brierley Investments Ltd. - a major New Zealand investment company - of Sealords Products Ltd., New Zealand's largest commercial fishing company holding approximately 25 per cent of fishing quotas. The Commission's share of the purchase price, $150 million, was financed by the Government. The estimated value of the quota which Maori acquired effective control over under the settlement was $286 million. In addition, the settlement made provision for the allocation to Maori of 20 per cent of new species introduced into New Zealand's quota management system, with an estimated value of $22 million. (Under the terms of the Maori Fisheries Act 1989, the Maori Fisheries Commission had already received quota and cash to an estimated value of $174 million. The Government's actions under these two pieces of legislation have thus established Maori in the business of fishing, as intended, with a total package involving quota worth approximately half a billion dollars.)

50. The settlement was reached following several years' discussion between the Crown and Maori over the manner in which Maori fisheries claims under the Treaty should be resolved. Maori negotiators had been given a mandate at a national hui in June 1988 to secure a just and honourable settlement of Maori claims. While the Crown and Maori negotiators sought an agreed overall solution, court proceedings were adjourned by consent and it was agreed that no further species would be brought within New Zealand's quota management system pending settlement. The opportunity to acquire Sealords Products Limited offered a unique chance to achieve a comprehensive settlement, and one which was proposed by the Maori negotiators. A memorandum of understanding outlining the proposed deal was signed by the two sides, and the Maori negotiators subsequently sought a mandate from Maori. The memorandum and its implications were debated at a national hui and at hui at 23 marae throughout the country. Although there were dissenting views within the Maori community, the Maori negotiators' report satisfied the Crown that a mandate had been given, and the Deed of Settlement itself was subsequently negotiated, and followed shortly thereafter by the passage through Parliament of the Treaty of

Waitangi (Fisheries Claims) Settlement Act. Reservations about the settlement were expressed by Maori Members of Parliament. Court proceedings were also instituted against the Crown over the Settlement.

51. The Maori Fisheries Commission was restructured under the Act as the Treaty of Waitangi Fisheries Commission, with an expanded membership of up to 13. In addition to the functions of the previous Commission, the new Commission was given the task of developing a procedure for identifying the beneficiaries of the settlement and for allocating its benefits to them. It was also required to be more accountable to Maori.

52. The Commission has now begun implementation of the settlement. The process is proving to be far from straightforward, with critics among both Maori and non-Maori New Zealanders. As noted above, the Commission is responsible for developing proposals, in consultation with Maori, for allocating the fish quota to Maori. No consensus has yet been reached on this, the views of Maori being divided along two principal lines: one, that the quota should be allocated according to iwi population numbers, and the other that it should be allocated on the basis of mana moana (i.e. that fish off the coastline of iwi boundaries are the taonga or treasures of that iwi).

53. Nineteen Maori individuals, claiming to represent several iwi and hapu, have, in exercise of the right under the Optional Protocol to the International Covenant on Civil and Political Rights, filed a communication with the Centre for Human Rights in Geneva alleging that the settlement and the Act constitute a violation of several articles of the Covenant. As at the time of preparation of this report, the Human Rights Committee had not ruled on the admissibility of the communication, which has been contested by the Government of New Zealand.

[A copy of the Treaty of Waitangi (Fisheries Claims) Settlement Act is attached as annex 8.]

Te Ture Whenua Maori Act 1993 (The Maori Land Act 1993)

54. Te Ture Whenua Maori Act 1993 has replaced the Maori Affairs Act 1953. This new Act gives Maori a greater say in Maori land matters and is framed according to what Maori have said they need. It has as its foundation the Treaty of Waitangi, noting in its preamble the special relationship which the Treaty established between the Maori people and the Crown. Retention of Maori land in Maori ownership is at the heart of the legislation. It gives to Maori land owners the power to decide upon and facilitate the retention, development, use and occupation of their lands.

55. Te Ture Whenua Maori Act affects 1.27 million hectares of Maori freehold land - some 4.7 per cent of the total land area of New Zealand. It sets out strict rules for alienation (transfer of ownership) of Maori land. Maori freehold land can only be alienated after owner consent requirements have been met, and confirmed by the Maori Land Court. At least 75 per cent of the owners of Maori freehold land have to agree before it can be sold. The new Act also limits succession to Maori land. Owners can bequeath their interest in land only to one or more of their children or other blood relation.

56. The Act also deals with issues such as fragmentation of ownership interests, and the retention, development and enhanced utilization of Maori freehold land. New forms of trusts have been provided and Maori incorporations will have wider powers to operate commercially in the best interests of their shareholders, like any other company.

57. Publicizing this important new legislation has been a priority for Te Puni Kokiri. A number of hui were organised throughout the country to promote understanding among iwi of its terms, and a series of booklets was published with the same objective.

[A copy of Te Ture Whenua Maori Act is included as annex 9.]

Maori Commercial Forestry

58. In the 1992 Budget, Government announced an important funding initiative for forestry establishment on the East Coast of the North Island. The East Coast Forestry Project aims to promote contiguous commercial forestry as a means of controlling soil erosion, providing employment and assisting in regional development. The goal is to plant 200,000 hectares over 28 years. While not providing explicitly for Maori, the scheme offers an excellent opportunity for Ngati Porou (the iwi of the region) to utilise their land in providing both employment and economic benefits.

Employment

59. The Household Labour Force Survey for the June 1993 quarter indicated that 23.8 per cent of the Maori labour force and 26.6 per cent of the Pacific Island labour force in New Zealand were unemployed, compared with 9.7 per cent for the labour force as a whole.

60. Programmes of the New Zealand Employment Service (NZES) are targeted at the long-term unemployed (i.e. those out of work for more than 26 weeks) and people facing other disadvantages finding work, rather than at specific ethnic groups, although it is recognised that barriers to employment can be the result of racial or cultural differences. The Service has identified ways of working through Maori networks to address the needs of this large section of the long-term unemployed and has recently appointed a Maori Employment Coordinator to develop this process further.

61. Employment centres operated by the Service have successfully adapted the delivery of their services to Maori by working and talking with local Maori whanau, hapu and iwi. Maori staff members of the Service have initiated many such contacts, focusing on the particular needs of the local people. Examples of this type of programme are: Hui a Iwi, in which joint presentations enable iwi to learn about the services of several government agencies relevant to Maori unemployment; Wahine Ahuru/Turning Point, designed especially for Maori women returning to paid work after raising their families; and the promotion of NZES services and products on local iwi radio.

62. The Community Employment Group was set up in late 1991, amalgamating the Department of Labour's Community Employment Development Unit, its Group Employment Liaison Service (described in New Zealand's previous report,

para. 89), and the Alternative Employment Programmes of the Department of Internal Affairs. The group works with local communities to help maximize opportunities for employment and to assist people to move towards self-sufficiency and positive activity. The Group works as a catalyst with communities and groups in a variety of ways which include:

(a) Putting them in touch with other sources of funding or partnership if appropriate;

(b) Helping them to develop and implement ideas which may lead to opportunities for employment, firstly, through the provision of advice and secondly, where appropriate, by offering small grants to partially cover project costs;

(c) Enlarging upon and promoting successful ideas for further implementation, regionally or nationwide; and

(d) Generally helping with the coordination of local employment development.

63. A self-help approach is encouraged, where communities own each employment initiative. The Group has a particular interest in projects which assist groups of unemployed people who face multiple barriers to employment such as low skills or qualifications, criminal records, gang association, substance abuse, long-term unemployment and/or physical disability.

64. The Community Employment Group is actively involved in work with Maori and Pacific Island organisations. Projects may operate at local and national levels. The Group places a particular focus on working in partnership with iwi to facilitate work opportunities. This is achieved through both field operations and project funding. Projects developed fall into three main areas;

(a) Enterprise skills training to assist Maori into self-employment;

(b) Assisting Maori to utilize their land or other under-utilized resources to facilitate opportunities for employment through a range of iwi and hapu-based local economic development strategies;

(c) A range of one-off projects aimed at providing employment, especially to long-term unemployed and those in rural areas. Projects focused on Pacific Island people include enterprise skills training and employment creation through traditional crafts and skills.

65. The establishment and support of networks, both regional and national, is central to the work of the Community Employment Group and has proved successful in assisting employment initiatives for Maori and Pacific Islanders.

66. Research based on the 1991 Census indicates that unemployment for New Zealand's other, smaller, ethnic minorities, while higher than New Zealanders of European descent, is not as high as for Maori or Pacific Islanders. (Income levels for most groups were either similar to or above the

average, although incomes for Cambodian and Vietnamese tended to be below average.) However, these groups often face other employment-related problems, such as gaining recognition of professional skills and qualifications gained overseas; monitoring of working conditions (especially for those working in unskilled jobs); and gaining information about taxation, benefits and related matters. These are among the areas targeted by the Ethnic Affairs Service in liaison work between government agencies and ethnic communities.

Education

67. Education is recognised as holding the key to a better outlook for people in groups which are currently disadvantaged in the economic and social sectors. The reforms of the late 1980s under the Tomorrow's Schools programme (about which the previous report contained information) represented a major reorganization of the New Zealand education system. Their full effects are not yet known. Under the Education Act 1989, equity considerations must be part of the chartering process of every education institution. As well, the National Education Guidelines provide a clear direction for equity provisions. Each school board is required, through consultation, to identify barriers to learning and achievement and to introduce strategies to overcome them.

68. The New Zealand Curriculum Framework developed over the past three years and issued in 1993 draws on the findings of curriculum reviews of the 1980s and responds, inter alia, to recent changes in New Zealand society. [A copy of the curriculum document is attached as annex 10.] It acknowledges the value of the Treaty of Waitangi, and of New Zealand's bicultural identity and multicultural society. It reflects the need for a more equitable curriculum especially for those disadvantaged by the existing system, including Maori and Pacific Island students. The extension of the jurisdiction of the Race Relations Conciliator to the area of discrimination in education (referred to in sect. A above) is expected to strengthen the effectiveness of this process.

69. A particular concern continues to be the unequal educational achievement of Maori compared with non-Maori in New Zealand. For example, figures from the 1991 Census show that only 34 per cent of the Maori population aged 15 years and over held a school qualification, compared with 54 per cent for the total population. Only 24 per cent held a tertiary qualification, compared with 37 per cent for the total population. While the level of Maori achievement has increased over the period under review, the rate of improvement is not as great as in other groups. Increased participation and success by Maori through the advancement of Maori education initiatives, including education in te reo Maori (the Maori language), consistent with the principles of the Treaty of Waitangi, is one of the fundamental outcomes sought by the Government in its education policy over this period. Research undertaken during the education reform process of the late 1980s showed that Maori people saw the revitalization of their language and culture as the key to lifting the educational performance of Maori children. The Government has thus accorded priority to the development of Maori immersion education during the reporting period. This is seen as meeting the important goals of supporting the recovery of te reo as a living language and encouraging both greater involvement by Maori parents and higher achievement and greater participation by Maori students in education. In 1990, a taha Maori syllabus

for primary schools was developed. At present, Maori language versions of the mathematics and science curriculum statements for Maori immersion students are being developed. Along with the curriculum statement in the Maori language, they will be available for trialing in schools in 1994. Curriculum in other essential learning areas of curriculum are likely to be developed in the Maori language.

70. In the area of early childhood education, te kohanga reo (Maori immersion language nests, described in para. 139 of the previous report) has grown 250 per cent in student numbers since the early 1980s and is now the single most popular form of early childhood education for Maori parents. In July 1993, 14,415 children (49 per cent of all Maori early childhood enrolments) were attending 809 kohanga centres. This is an increase of almost 6,000 (140 per cent) enrolments since 1989. Kohanga is unique in that it is the only childhood service in New Zealand where Maori make up the majority of the children. In 1993, Maori enrolments in all early childhood education increased at a faster rate than total enrolments.

71. In primary education, 23 State-funded kura kaupapa Maori (Maori immersion schools) have been established since 1990. All were set up with strong support by Maori in the areas concerned. Given the demand for Maori immersion education programmes at these early levels, it is likely that demand at the secondary level will also grow. In 1992, New Zealand's first kura kaupapa a rohe (Maori immersion area school, catering for primary and secondary students) was established at the Hoani Waititi Marae. A further step has been taken in this direction with the piloting of a whare kura (Maori immersion secondary school) at Hoani Waititi Marae, which will be monitored by the Ministry of Education.

72. These initiatives, which provide alternatives outside traditional mainstream education settings, represent a major development in efforts to reduce disparities in Maori education. At the same time, the Government's policy of mainstreaming Maori education, training and programmes to different educational agencies, outlined in general terms in section A above, has been another important feature in the education area since 1989. A number of educational and training programmes previously administered by Te Puni Kokiri and, prior to the establishment of Te Puni Kokiri, the Iwi Transition Agency, have been transferred to the Ministry of Education and other education agencies, so as to allow for the integration and coordination of Maori education programmes with other government initiatives. The programmes transferred included Maori vocational training, secondary and tertiary student allowances for Maori, and the inclusion of Maori in transitional and training opportunity programmes.

73. The Ministry of Education in 1990 developed a Ten Point Plan for Maori Education, which has been regularly updated. [A copy of the Plan for 1993/94 is included as annex 11.] The Plan outlines all major undertakings by the Ministry of Education in Maori education, and represents a response to the Government's requirements of its agencies in regard to the needs of Maori, under the mainstreaming policy. The main objectives of the Plan are to ensure the retention of te reo Maori and to increase the achievement rates of Maori

students through positive achievement initiatives. The Plan has been distributed to over 200 Maori organisations for comment, on which the Ministry will base the further development of initiatives in this field.

74. There have been several significant developments in teacher training for Maori education during the reporting period. The Whakapakari programme for training teachers in kohanga reo was developed by the Te Kohanga Reo National Trust. The Trust negotiates an annual agreement with Te Puni Kokiri and the Ministry of Education which formalises responsibilities in the delivery of funding. The programme provides for whanau-based (family-based) training for teachers in kohanga reo at a rate of approximately 230 per year. In addition, the Ministry of Education has set up a training programme to increase the fluency of practising teachers in Maori immersion education, and to enable more of the New Zealand curriculum to be taught in the Maori language.

75. As may be surmised from this outline of developments in Maori education, the question of alternative education structures has been an issue for Maori during the reporting period. Kohanga reo in the early childhood sector and kura kaupapa Maori in the school sector are alternative educational options encouraged and supported by the Government to increase Maori participation in education and improve the retention and maintenance of the Maori language. In addition, from January 1994 the Government will establish two wananga (Maori universities) with funding for 304 full-time students. Iwi have specifically requested a formal role in the New Zealand education system, within traditional tribal boundaries. The Ministry of Education has been involved in discussions with iwi on these matters and will be exploring the implications of separate structures for Maori education in relation to mainstream education as part of the Ten Point Plan referred to above.

76. The obstacles to Maori achievement within the education system have also to some extent affected New Zealand's Pacific Island communities. In recent years, there has been a growing interest in promoting the language of these groups too as the foundation for better learning. The number of Government-funded Pacific Island pre-school language nests has grown from 75 to about 220 since 1989, based on the non-profit-making pre-school groups scheme mentioned in the previous report. In addition, about 12 Pacific Island language nests are fully licensed and therefore fully Government funded.

77. In a booklet entitled "Three Years On", published in 1992 by the Ministry of Education as part of a programme to monitor progress under Tomorrow's Schools, a number of achievements in the area of equal educational opportunities and (as discussed in preceding paragraphs) of Maori education were reported. However, it concluded that while the reforms had made spectacular achievements overall, much still remained to be done. Among learners who make up significant groups at risk of not using the education opportunities available, the report included students who do not have access to the language and culture of their family group. This factor is recognised in the Curriculum Framework, which states that the curriculum will promote the use of language that does not discriminate against particular groups of people. It states that provision will be made for students whose first language is not English to become proficient in it, while opportunities will also be given for such students to develop and use their own language as part of their schooling.

78. The disadvantages faced by students from non-English-speaking backgrounds (NESB students) were further illustrated in an international survey of reading literacy published in 1993 by the International Association for the Evaluation of Educational Achievement (IEA). Here it was shown that, while the reading standards of New Zealand children are in general among the highest in the world, the gap in performance between NESB students and others was wider than in any of the other countries surveyed (between 15 per cent and 20 per cent).

79. Since 1989, the Ministry of Education has been gathering information about NESB students' in order to clarify the need for special English language programmes for them within the education system. The Ministry is committed to setting targets by 1995 to enable this need to be met. It was established that of the 46,700 NESB students the majority (over 32,000 in 1993) live in Auckland. Around 13,000 of all NESB students (or one third of the total) do not need any additional support in English language beyond what the regular teacher is able to provide. This includes a high proportion of the 27,000 NESB primary school children.

80. To meet the special needs of some students, the Ministry of Education has discretion to allocate supplementary funds to schools. For example, since 1989, some schools have been eligible for Equity Grants if more than half their students are of Maori or Pacific Islands descent or in some circumstances if they have a high level of NESB students. There is also a Learning Assistance Allowance (LAA) to supplement existing programmes to meet students' special needs, which is used by many schools to assist NESB students. Teachers of NESB students also have access to resources from Learning Media, the Pacific Island Education Resource Centre and the Wellington Multi-Cultural Education Resource Centre. New settler and multi-cultural coordinators, attached to each of the Colleges of Education (teacher training colleges), work with teachers and community groups. Assistance for NESB students continues to be available from polytechnics.

81. In addition, the Ministry has a discretionary pool of funding specifically for NESB students. In recognition of the increasingly pressing needs of schools in this area, the Budget of July 1993 provided additional resources of nearly $1 million for NESB students in schools. These resources are allocated by the Ministry after consultation with an advisory group which includes the new settler coordinator attached to each college of education. The Ministry of Education targets its discretionary resources for the teaching of English as a second language (ESOL) to students with the greatest need of short term English instruction. The majority of these are secondary school students who need basic oral or reading and writing instruction in English (approximately 8,000 students).

82. The impact of all policy initiatives is closely monitored by the Ministry of Education to determine the potential and real impact on minority groups. Research, evaluation and statistical monitoring are proactive activities designed to ensure the elimination of racial discrimination.

Language

83. The Government has identified a need for New Zealand to adopt a comprehensive languages policy. Among the reasons for this are the need to respond to the renaissance of the Maori language, and to the growing linguistic diversity which new migrants from non-English-speaking backgrounds have brought to the society in recent years. The obstacles to educational achievement posed by language difficulties have been discussed in preceding paragraphs. In addition, many of the difficulties faced by new settlers in New Zealand society can be traced to language problems.

84. In 1992, the Ministry of Education published "Aotearoa: Speaking for Ourselves", an issues document on the development of a New Zealand Languages Policy, for public discussion. [A copy is attached as annex 12.] The document is an analysis of New Zealand's language requirements in the areas of education, tourism, trade, immigration and social services. The report recommends that the revitalization of the Maori language rank first among issues to be addressed in a languages policy. A second major issue is the teaching of English as a second language for New Zealanders from non-English-speaking backgrounds; and another, education for the maintenance of ethnic community languages. The Ministry is currently analysing public feedback on the document, which was itself the product of wide consultation with interested parties.

85. The Maori Language Amendment Act 1991 changed the name of the Maori Language Commission to Te Taura Whiri i te Reo Maori, and extended the number of areas in which the right is provided to speak Maori in legal proceedings to include the Children and Young Person's Courts, the Equal Opportunities Tribunal and the Tenancy Tribunal. The overall role of the Commission (which was established in 1987) is to promote the Maori language and to contribute to its growth and maintenance as a living, widely used means of communication with a legal status equal to that of English. The Commission has continued in its statutory function of providing for the certification of interpreters and translators of the Maori language and endorsing certificates for the purpose of legal proceedings.

86. The Commission has been active in developing new terminology (around 1,000 new terms per year), particularly on themes such as science, mathematics and health. Much of this work relates to new word needs of Maori language immersion primary schools. Most government departments have adopted an official Maori title alongside their English title, and taken other measures to give greater recognition to the language in their official dealings (for example, in bilingual signs on buildings, in advertisements for job vacancies, on stationery and publicity material, and in some official forms and documents such as passports).

87. The New Zealand Parliament has provided within its Standing Orders that a Member may address the Speaker in English or in Maori, thus effectively providing the Maori language equal status to English in Parliament's official dealings in the House.

Health

88. Major health reforms were undertaken in New Zealand in 1992/93, principally through the enactment of the Health and Disability Services Act 1993. The legislation provided for the establishment of new Crown agencies (four Regional Health Authorities; the Public Health Commission; and the Crown Health Enterprises, formerly public hospitals and services). The key goal of the reforms was to put in place institutions and processes which would ensure that the needs of individuals and communities are identified and then met. Regional Health Authorities are able to contract with health providers in the public, private or voluntary sectors, thus ensuring the most efficient use of government health funds. They are also required to develop a Statement of Intent which reflects the Government's social and other objectives. As in other areas of government social services reform, an underlying concern has been to maintain protection for the most vulnerable groups in society. The following section contains information on such measures, especially with regard to Maori health issues.

89. New Zealand's previous report contained information on Maori health, much of which remains relevant. While the health status of Maori continues to improve it is still unsatisfactory relative to the rest of the population. As at 1991 life expectancy at birth was 75 years for all New Zealanders and 70 years for Maori. Nevertheless, this statistic reflects a substantial improvement over the last two decades. Maori born in the 1990s can expect to live almost 10 years longer than those born in the early 1970s.

90. A particular cause for concern is the relatively high rate of mortality for Maori infants compared with non-Maori. (New Zealand's total infant mortality rate is itself relatively high compared with others in the OECD group of countries: in 1988-1990 the rate stood at 9.9 per 1,000 live births. Of a total number of 507 infant deaths in 1990, 114 were Maori infants.) Infant mortality rates for the population as a whole declined by 35 per cent over the decade from 1980 to 1990, which included an 18 per cent fall between 1989 and 1990. The non-Maori rate decreased by 38 per cent, compared with a reduction of only 17 per cent in the Maori rate. The major cause of death for Maori infants is sudden infant death syndrome (SIDS or cot death), which accounted for 47 per cent of Maori infant deaths in 1990, compared with 28 per cent for non-Maori infant deaths. However, the most recent statistics available give cause for some optimism. Despite fluctuations, the rate of Maori infant death due to SIDS has declined over the past decade, and in 1992 decreased by 33 per cent to 6.1 per 1,000 live births (from 9.2 per 1,000 in 1989). The national cot death prevention programme, aimed at reducing the prevalence of four identified risk factors, appears to be having a positive effect. In addition, Te Puni Kokiri is actively involved in the development of Maori health policy, and among the pilot projects which it has developed during the period under review is the Tipu Ora programme, which aims to foster good pre- and post-natal care for Maori mothers and babies by encouraging positive health practices such as smoke-free homes, immunization and well-child care. This programme has already made a significant impact on the health of the children in its community.

91. The Health and Disability Services Act requires all those involved in the public health system to "seek to improve the health status of Maori so that in

future Maori will have the opportunity to enjoy the same level of health as non-Maori". Provision is made for the Crown to develop social and other objectives to meet the special needs of Maori. This commitment is regarded by Maori as fundamental to Maori health development. A statement supporting the introduction of the new legislation, entitled "Whaia Te Ora Mo Te Iwi - Government's response to Maori issues in the health sector", reiterated the Government's recognition of the Treaty of Waitangi as the founding document of New Zealand and its intention to address health issues through consultation and discussion. The production and dissemination of information about the reforms and the opportunities they present to Maori is a priority for Te Puni Kokiri, which is also engaged in monitoring their effects on Maori communities.

92. The Committee may be interested in the development of culturally appropriate health services for Maori, as discussed in paragraphs 133-134 of the previous report. The Government has again acknowledged the importance of such practices (also referred to as cultural safety) in Whaia Te Ora Mo Te Iwi. Most health professional training now includes a component on health-related values and practices of Maori so that these are incorporated into the care given. The recruitment of Maori into health professions has been actively pursued although they are still a relatively small proportion of the total. The issue of cultural safety training for health care workers was highlighted by the New Zealand media reporting on an incident in mid-1993, in which a nursing student at Christchurch Polytechnic was suspended on grounds of cultural insensitivity after failing a unit on culture and society. Debate around this incident showed that the need to understand and demonstrate respect for the values of Maori in the health system is still controversial in New Zealand society.

93. A number of places are set aside in New Zealand's annual refugee quota for sick or disabled people. The health status of newly arrived refugees is assessed, and appropriate treatment provided, during the six-week orientation period in the Mangere Resettlement Centre. Taken as a group, the main health concerns of refugees are tuberculosis, hepatitis B and sexually transmitted diseases. Many also suffer from depression and post-trauma stress. Under the Health and Disability Services Act, all people who apply for refugee status in New Zealand are eligible for the same health benefits and access to services as New Zealanders while their application is considered. In order to ensure a coordinated and appropriate response to refugee health concerns, a focus group has been established in the Ministry of Health.

94. New Zealand's Pacific Island populations also face particular health problems. Compared with other ethnic groups, Pacific Island children have the greatest risk of hospital admission, from both accidents and infections. Pacific Islanders have the highest perinatal morbidity and mortality rates and, due to lower immunization rates, high incidence levels of vaccine-preventable diseases. The Ministry of Health has identified the need for better communication as a major avenue for improving the health status of Pacific Islanders in New Zealand. The Crown Statements of Objectives for the Northern Regional Health Authority (the area in which the largest number of Pacific Islanders live) require special attention to be paid to the health needs of Pacific Island people. The Authority is actively seeking funding for culturally appropriate services.

95. A difficulty experienced by many belonging to ethnic minorities in New Zealand, especially new settlers, is communication with health professionals. In 1990, the Auckland Area Health Board established a pilot interpreter service at Middlemore Hospital, which caters for a linguistically varied population in South Auckland. This has proved a welcome innovation.

Housing

96. In 1991, the Government undertook significant reforms in the area of housing. The functions of the former Housing Corporation were divided between three main agencies: (i) a new Ministry of Housing (providing policy advice to Government and administering the Residential Tenancies Act 1986); (ii) a new Crown company, Housing New Zealand Ltd. (operating the Government's rental business); and (iii) the Department of Social Welfare (providing almost all Government financial assistance for housing). The objectives of the housing reforms were to improve fairness and consistency of treatment for clients in the government housing sphere, to target assistance better, to ensure greater choice and self-reliance and to provide incentives to keep accommodation costs down. [A leaflet on the reforms is included as annex 13.]

97. The Statement of Government Policy on Housing and Accommodation (July 1991) noted that important social measures, such as discouraging discrimination, would remain under the new system and would be reviewed to ensure their adequacy in the new environment. The Statement included the following points:

> "Legal protection against all forms of discrimination is provided under the Human Rights Commission and Race Relations Acts."

98. Discrimination in the housing market occurs in a number of ways, including refusing access to accommodation or finance; asking for higher than usual prices; or limiting the type or location of housing offered.

> "People who experience discrimination may be faced with a long and expensive search, or end up with a lower standard of housing than they either want or can afford. As a major operator in the rental accommodation market, the new rental business will not be able to afford accusations of discrimination. Further, as a State Owned Enterprise, the Corporation's rental business will be bound by its statement of intent to act in a responsible and non-discriminatory manner."

99. At the same time, it was decided to examine all relevant legislation in order to review the adequacy of legal provisions that apply to discrimination in the rental accommodation market. That review is currently being undertaken by the Ministry of Housing and the Department of Justice.

100. As there is little information available on the effectiveness of anti-discrimination laws in the New Zealand housing market, the Ministry has undertaken a study of these laws in the rental accommodation market, as a basis for sound policy aimed at rectifying possible problems. Future research is also planned to investigate the nature, level and extent of discrimination in the rental accommodation market.

101. Under the Treaty of Waitangi and the State Sector Act 1988, the Ministry has an obligation to pay particular attention to the needs of Maori. This responsibility is acknowledged in the policy advice given to the Government and in the delivery of services to clients. A number of factors adversely affect Maori access to housing, such as income, unemployment, larger than average household sizes, and the relatively youthful age structure of the Maori population. At the time of the 1991 Census, approximately 54 per cent of Maori households owned their own home, 19 per cent were renting from private landlords, 15 per cent were renting housing from central Government, 3.78 per cent were renting housing from State Owned Enterprises, other government agencies or local authorities, 1.8 per cent rented from unspecified sources and the remainder was either provided free or the tenure was unspecified. Because of their relatively low average per capita income, Maori are likely to be entitled to more assistance from the Accommodation Supplement (introduced in mid-1993 to replace State rent and interest rate subsidies) than the rest of the population.

The Children, Young Persons and Their Families Act 1989

102. The Children, Young Persons and Their Families Act 1989 (which was referred to in para. 126 of the previous report) has continued to evolve. A review of the Act carried out over 1991/92 concluded that the system of youth justice which it established was functioning in many respects extremely well; but that there was nevertheless still some way to go before it could be regarded as meeting the expectations held for it when it was introduced. Recent figures indicate that Maori children and young persons are four times as likely as all others to have a youth justice Family Group Conference (the mechanism provided under the Act for resolving matters relating to care and protection, and youth justice, before formal court processes are begun). Although separate research shows this does not necessarily mean that young Maori offend more regularly or more seriously, the issue of effective follow-up and prevention programmes for young Maori offenders remains a challenge for the social and justice systems.

Prison Inmate Programmes

103. In the system of case management which has recently been introduced into all New Zealand prisons, the cultural needs of inmates are identified and taken into account in developing individual inmate case management plans. Each prison has a committee, which includes representatives of significant community groups such as iwi, to identify the types of programmes and services required to meet the needs of inmates, including their cultural needs.

104. A wide range of reintegrative services are provided in prisons to meet the needs of offenders, for example in relation to anger management, substance abuse, job skills training, basic education and cultural needs. Programmes are often run by community groups, including in many instances programmes provided by and for Maori, and by and for Pacific Islanders in the areas of alcohol and substance abuse, and anger management. The Department of Justice attaches importance to the provision of Maori language and culture programmes as a way of helping Maori inmates to strengthen their cultural identity.

Article 3

105. New Zealand continued in the period under review to condemn all forms of racial discrimination and segregation, and apartheid in particular. In the United Nations and in the Commonwealth, New Zealand joined with other members of the international community in calling on South Africa to dismantle apartheid. At the General Assembly New Zealand continued to co-sponsor the resolution on "concerted international action for the elimination of apartheid" (1990) and on 'international efforts towards the total eradication of apartheid and support for the establishment of a united, non-racial and democratic South Africa" (1991-1993). New Zealand remained a member of the United Nations Oil Embargo Committee until its dissolution on 9 December 1993. New Zealand continued to support the various United Nations and Commonwealth funds directed towards helping the victims of apartheid and promoting their welfare.

106. New Zealand had no consular, diplomatic or trade representation in South Africa during the period under review. The South African Consulate-General in Wellington was closed in 1985. Following the establishment of a Transitional Executive Council to prepare for South Africa's first ever multi-racial elections in April 1994, New Zealand announced its intention in December 1993 to establish diplomatic relations with South Africa.

107. Trade with South Africa remained at less than half of 1 per cent of New Zealand's total trade. So far as the Government is aware there was no New Zealand investment in South Africa. There was no cooperation between New Zealand and South Africa in the military or nuclear fields, and at the request of the Government oil companies agreed not to import oil products from South Africa or to export them to South Africa, until the lifting of the United Nations oil embargo in October 1993.

108. On 22 October 1991 the Commonwealth approved the lifting of some sporting and all people-to-people and cultural exchange sanctions against South Africa in recognition of positive developments there. The Commonwealth arrived at this position after close consultation with member nations, including a number of front line States, and the African National Congress. During the period under review New Zealand continued to discourage sporting contact with those sporting codes which had not been cleared by the appropriate representative non-racial sporting organization in South Africa, had not been readmitted to the relevant international governing body and had not received the approval of the National Olympic Committee of South Africa for resumption of international competition. Cultural sanctions were lifted in 1991 in line with the Commonwealth's decision, as were those connected with (non-nuclear or military) scientific contact.

109. On 1 October 1991, following the passing of a bill in the South African Parliament establishing the Transitional Executive Council, New Zealand, along with other Commonwealth countries, lifted trade, investment and financial sanctions against South Africa. Agreement on the Transitional Executive Council met the conditions for lifting sanctions which was set at the meeting of the Commonwealth heads of Government in Harare in 1991.

110. During the period under review New Zealand maintained the mandatory ban on the export of arms (including aircraft and spare parts for aircraft, computer and telecommunications and electronic equipment) and the voluntary ban on imports of arms, ammunition and military vehicles. New Zealand continued to implement other Commonwealth measures against South Africa pending the installation of a fully democratic non-racial Government in South Africa.

Article 4

111. Information provided in New Zealand's previous reports on sections 24 and 25 of the Race Relations Act 1971, under which racial discrimination in access to places, vehicles and facilities, and incitement to racial discrimination are criminal offences, remains relevant. Sections 134 and 131 of the Human Rights Act 1993 respectively maintain these actions as criminal offences. The penalty for inciting racial disharmony under section 131 is a fine of up to $7,000 or a prison sentence of up to three months. The penalty for a conviction under section 134 relating to public access is a fine of up to $3,000.

112. The importance of section 25 as a safeguard was heightened during the period under review by the repeal in December 1989 of section 9 A of the Race Relations Act, under which the Race Relations Conciliator could undertake civil proceedings on complaints of incitement to racial discrimination. Reference may be made to paragraph 16 of New Zealand's previous report for background to the decision to repeal section 9 A, which had come to account for easily the largest number of complaints received, and had long been found unsatisfactory. The Conciliator supported its repeal but urged that it be replaced in a more workable form in order to maintain protection against racist language and conduct. At the time of the amendment, it was expected that revised human rights legislation would be enacted shortly thereafter, in which a new procedure relating to racially insulting language would be included. In the event, certain delays occurred in the process of drawing up the new consolidated Human Rights Act 1993, with the result that there has over the period under review been an identifiable gap in the jurisdiction of the Conciliator in the area of racial disharmony. A number of ethnic groups, as well as the Race Relations Office and the Department of Justice, supported the inclusion of new measures to fill this gap when Parliament was addressing the Human Rights Bill. As a result, and as described in the report under article 2 above, section 61 of the Human Rights Act 1993 provides a civil remedy for those who are the victims of racial defamation. This section provides for a higher threshold at which language will come within its ambit than that which existed under the old section 9 A. A defence is also provided in the new section for the media, in an attempt to counter some of the problems experienced with the earlier legislation. Another provision of the new legislation expected to be of benefit to members of ethnic minorities and to the Conciliator in fulfilling his mandate is contained in section 63, outlawing racial harassment in certain situations.

113. Pending the entry into force of the new legislation, some complaints in this area have been handled by the Race Relations Office by being referred to the Broadcasting Standards Authority or the Press Council, which act as watchdogs on media standards. In other cases, the Office sought to encourage

self-help options and low-key community resolutions, suggesting possible courses of action without becoming actively involved in mediation. Involvement by a local community police constable was suggested in some instances. No prosecutions were taken by the police under section 25, however. Preliminary action was taken by the Race Relations Conciliator on two cases under this section but there was insufficient evidence to pursue them.

114. Under the Human Rights Act 1993, the Proceedings Commissioner appointed under the Act will determine whether a complaints proceeding will be instituted to the Complaints Review Tribunal.

115. Further information on the number and nature of complaints addressed by the Race Relations Office during the period under review is provided in the report under articles 5 and 6 below.

116. The comments made under the section concerning measures taken against organizations promoting racial discrimination in New Zealand's fifth periodic report remain applicable. The relevant provisions of the Race Relations Act 1971 and the Human Rights Commission Act 1977 have been carried over into the new Human Rights Act 1993, as noted elsewhere in the report.

117. The comments made under the section concerning measures taken not to permit public authorities to promote racial discrimination in New Zealand's seventh periodic report remain applicable. The Human Rights Act 1993 will, upon its entry into force in February 1994, be binding upon the Crown as well as upon local authorities, public institutions and business organizations.

118. As noted above, the delay in enacting a replacement provision for section 9 A of the Race Relations Act 1971 left a gap in the jurisdiction of the Race Relations Conciliator. This did not reflect any diminution on the part of the New Zealand Government, however, in its commitment to protect against incitement to, or acts of, racial discrimination in New Zealand society. Evidence of that commitment (and of the Government's responsiveness to the concerns of ethnic minority communities and the Race Relations Office) is seen in the inclusion of section 61 in the new Human Rights Act, reinstating complaints of incitement to racial disharmony within the jurisdiction of the Conciliator, as well as in the maintenance of penal provisions under sections 131 and 134, and more generally in the expansion of the overall role of the Conciliator.

119. The specific penal internal legislation designed to implement the provisions of article 4 (a) and (b) of Committee decision 3 (vii) is, for the period under review, section 25 of the Race Relations Act 1971, and after the entry into force of the Human Rights Act 1993, section 131 of that Act.

Article 5

120. For information concerning the legislative, judicial, administrative and other measures adopted by New Zealand to give effect to the provisions of article 5, reference should be made to New Zealand's first and third periodic reports and to the relevant parts of this report under article 2. The Human

Rights Act 1993 maintains in full the provisions of the Race Relations Act 1971 and the Human Rights Commissions Act 1977 relevant to the provisions of article 5.

121. The Committee may also wish to refer to reports submitted by New Zealand as a State party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The Electoral Act 1993: Maori electoral representation

122. Debate on the nature of Maori parliamentary representation has continued during the period under review, as interest in comprehensive electoral reform has intensified. Pursuant to the recommendations of the 1986 Royal Commission on the Electoral System (to which reference was made in the eighth and ninth periodic reports and, in more detail, in New Zealand's most recent report to the Human Rights Committee), an electoral referendum was held in September 1992 in which voters were asked to choose between retaining the current first-past-the-post system (FPP) or changing to one of the four alternative forms of proportional representation - mixed member proportional (MMP), supplementary member (SM), preferential voting (PV) or single transferable vote (STV). The majority of votes were in favour of changing the electoral system, and the majority of those in favour of change voted for MMP.

123. As a result of that referendum, the Government was obliged to hold a second referendum at the same time as the general election in November 1993. Voters at the referendum had a choice between voting for the retention of the FPP system, or a change to MMP. A clear majority of voters - 53.8 per cent - supported a change to MMP. (Voters in the four Maori electorates favoured the change by a ratio of 2:1.) The legislation that provided the mechanisms for the referendum, the Electoral Reform Act 1993, also includes legislation that will now enable the MMP system to be introduced into law. This is the Electoral Act 1993, certain provisions of which, including those which provide for the registration of electors, are already in force. The remaining provisions of the Act come into force on 1 July 1994. A comprehensive public information programme was undertaken in the lead-up to the referendum, as part of which Maori organizations worked to ensure the awareness among Maori people of its implications for their electoral representation.

124. For Maori, the prospect of electoral reform has meant the possibility of dramatic changes to their electoral representation, given that under the present system Maori people have not been able to have a level of representation in Parliament fully commensurate with their population numbers. (There are currently six Maori Members of Parliament, i.e. representing the four Maori electorates and two general electorates. It is also of interest that in the recent elections, a Pacific Islander was elected to Parliament for the first time as the representative of a general electorate.) In the period leading up to the adoption of the Electoral Reform Act in August 1993, more than 20 hui were held throughout the country, culminating in a national hui in May 1993. A frequent concern expressed by Maori was that separate representation would be discarded if MMP were introduced. (The draft legislation provided for the abolition of the four separate Maori seats in favour of a system that would give Maori parties a degree of preferential treatment in respect of the list seats.) Concern was also expressed with the

current system, which does not provide for any increase in the number of separate Maori seats on the basis of population (by contrast with the system for increasing the number of general electorates).

125. These concerns were reflected in the final form of the Electoral Reform Act. The MMP system which it incorporates now provides for separate Maori representation, based on the number of Maori on the Maori electoral roll. While the current Maori roll would give Maori an entitlement to only four seats, the Maori electoral population is such that, if all Maori chose to register on the Maori roll (rather than on the general roll) they could be entitled to approximately 10 seats. In all other respects Maori are treated the same as the general population with respect to parliamentary representation.

Employment

126. Complaints about discrimination in employment matters, under section 5 of the Race Relations Act, now constitute the largest single category in the Office's caseload, albeit at a level which has remained fairly constant in recent years (62 in 1990/91, 66 in 1991/92, and 64 in 1992/93). The continuing high level of unemployment in New Zealand remains a probable factor in this picture.

Education

127. One area in which the Race Relations Conciliator noted an increase in the number of complaints and inquiries during this period was race discrimination in education, in particular with regard to Maori educational rights. In many cases, these sprang from confusion as to relative rights and responsibilities in the wake of major education reforms undertaken in the late 1980s. The Conciliator has no specific jurisdiction in relation to racial discrimination in education - complaints can however be made to the Human Rights Commissioner under section 26 of the Human Rights Commission Act 1977, and the Race Relations Office has begun making efforts to help schools, parent groups, Boards of Trustees and others involved to reach an accommodation as to the Maori dimension in the education system. Under the Human Rights Act 1993, the jurisdiction of the Race Relations Conciliator is extended to education, reflecting the trend noted in preceding years.

128. Further information on the nature and number of complaints received by the Race Relations Office during the review period is given in the report under article 6 below.

Immigration

129. The following information updates that provided in New Zealand's previous report on changes to immigration policy. The Immigration Amendment Act 1991 made substantial changes in this area. The changes were intended to attract quality migrants in greater numbers from a wider catchment of countries, and have led to significantly greater numbers of migrants being approved from countries which, under previous immigration policies, would have been considered "non-traditional sources", especially from Asia. Over the period

from 1989-1993, the proportion of new migrants from North Asia increased from 26 per cent to 42 per cent of the total, while migration from Asia as a whole increased from 47 per cent to 58 per cent of the total.

130. The policy provides for four broad categories of permanent migration: the General category (under which applicants are assessed and ranked under a points system, awarded against a number of standard quality criteria); the Business Investment category (under which applicants are assessed on the basis of their business skills and experience, and their ability to transfer business investment funds to New Zealand for a specified period); the Family category (under which applicants are assessed on the basis of their relationship to a New Zealand citizen or resident); and humanitarian policy (enabling entry of people whose circumstances are exceptionally difficult and can only be resolved by being granted residence in New Zealand, and who have a close family connection there).

131. Under the Immigration Amendment Act 1991, the General category replaced the former Occupational category. In this General category, a points system is used to rank applicants on their employability (in terms of their qualifications and experience), age and settlement factors (in terms of having a sponsor, an offer of skilled employment, or settlement funds or investment funds). A minimum level of English is also required. National origin is not a consideration under the points system. The emphasis of the General category is on assessing the overall calibre of the applicant, with migrants being allocated points for attributes and then periodically ranked. Those scoring the highest number of points are eligible for residence, provided they meet the normal immigration criteria. There is an annual quota of migrants which is currently set at 25,000.

132. The Immigration Amendment Act set up two new independent appeal tribunals, the Residence Appeal Authority and the Removal Review Authority. These procedures have replaced appeals to the Minister. The Residence Appeal Authority provides unsuccessful applicants with an opportunity to have the decision independently reviewed. The Authority may approve cases where it is satisfied they fall within the policy applicable at the time the residence application was lodged or where there are special circumstances to warrant an exception to policy being made. The Removal Review Authority has the power to quash a removal order served on a person for being in New Zealand unlawfully, where there are exceptional humanitarian grounds for allowing the person to remain, or where a person has been determined not to be an overstayer. The Immigration Act preserves a right of appeal to the High Court on questions of law against decisions of the Removal Review Authority, and a right of appeal to the Court of Appeal by leave.

133. The changed policy has brought with it new concerns in some sectors of New Zealand society, which have been recognized by the Race Relations Office as having the potential to disrupt racial harmony. In his annual report for the year 1991/92 the Conciliator thus commented, "(The recent arrival ... of migrants from Asia in substantial numbers) has led to more critical attention being paid to New Zealand's immigration policies and fears being expressed in some quarters of an alteration in the overall ethnic balance in New Zealand. Objections have been voiced by some Maori groups to the lack of consideration being given to these factors and to a failure on the part of the government to

take Maori views on immigration adequately into account. More fundamentally there have been signs of misgiving among New Zealanders over the weight of business influence and purchasing power of new Asian immigrants. Here, too, there is a need for more publicly available information on the objectives and implications of the migration process, the potential benefits and the new sense of diversity that Asian and other people bring to New Zealand. In other words, there is a need for a clearer exposition of the proposition that people from other cultures can enhance New Zealand rather than threaten it." In a similar vein in the report for the following year, the Conciliator noted that the problems of adjustment experienced by new migrants, and the inevitable problem of racial or ethnic stereotyping were principal issues in the matter of adjustment to the new immigration policy.

Refugees

134. The following information updates that provided in New Zealand's previous report concerning the number of refugees living in the country, the Government's resettlement policy, and any problems of racial disharmony that may have arisen from their presence. Additional information is provided about refugees pursuant to the Government's new refugee status determination procedures.

135. Since 1944 New Zealand has assisted with crisis situations around the world by accepting refugees, both under the Government's resettlement programme and its procedures for determining refugee status. The following table shows the number of refugees accepted for resettlement in New Zealand during the period January 1990 to September 1993.

Programme	Number
1 January 1990-30 June 1991	993
1 July 1991-30 June 1992	619
1 July 1992-30 June 1993	412

(The decrease in numbers over this period was due to the reduced number of referrals under the programme.)

136. The admission of refugees is an ongoing humanitarian priority in New Zealand's immigration policy. New Zealand's refugee resettlement programme has been developed and refined over the years. With its system of sponsorship and close community involvement, the programme ensures that the inflow of refugees matches the availability of resources, and that settlement is achieved with relative ease.

137. The resettlement programme provides for an annual global intake of a maximum of 800 refugees. (The quota for the 1990/91 year covered a 15-month period and was set at a maximum of 1,000 places.) Ministers may increase the annual intake if new refugee situations arise in a particular year. Special allowance is made for medically disabled refugees: 172 disabled refugees were resettled in New Zealand between January 1990 and September 1993.

138. Within the annual quota, broad categories are set - for example, categories set by the United Nations High Commissioner for Refugees such as

"women at risk", medically disabled, emergency cases and protection cases, as well as family reunion quotas. Refugees are selected for the resettlement quota from people who have been assessed by the United Nations High Commissioner for Refugees as meeting the criteria for refugee status and being in priority need of resettlement. Nominations for the programme are made either by UNHCR or, in the case of family reunion applications, by refugee communities in New Zealand.

139. Since 1992 New Zealand's focus for resettlement refugees has widened from South-East Asia to a more global focus. In 1992/93, for example, in addition to Indo-Chinese refugees, New Zealand accepted 94 refugees from Somalia and 104 refugees from Bosnia and Herzegovina. These are new refugee communities in New Zealand.

140. All refugees accepted under the resettlement programme spend six weeks at the Mangere Refugee Reception Centre in Auckland, which provides orientation, health screening, English language instruction and general assistance. Once the refugees have joined their sponsors in the community, special attention is given by the Ministry of Education to meeting the needs of children at schools, through a system of resource teachers. This system is coordinated through a National Coordinator, whose responsibilities also cover adult migrant education needs. A teacher has been assigned specifically to work with the Mangere Centre on the placement of refugee students with disabilities, and to follow up after their placement, in recognition of the multiple difficulties such students face.

141. With the restructuring of government housing policies (described in the report under article 2), administration of the Special Tenancies Policy passed to the Crown company, Housing New Zealand. The policy allows welfare and community organizations to be allocated tenancies in order to assist groups that may be disadvantaged in the housing market, including newly arrived refugees.

142. Over 13,000 refugee settlers have arrived in New Zealand since 1975, without any significant impact on racial harmony. Nevertheless, initial settlement procedures include familiarization with the terms of the Race Relations Act by staff of the Race Relations Office, and with the different social situations new arrivals can expect to experience in New Zealand.

Refugee status

143. As a party to the 1951 Convention and 1967 Protocol relating to the Status of Refugees, New Zealand has established formal procedures for determining refugee status. New refugee status determination procedures came into force in January 1991. The procedures were established by Cabinet directive and are not governed by statute. Under these procedures, responsibility for refugee status determination was transferred from the Ministry of Foreign Affairs and Trade to the New Zealand Immigration Service, in the Department of Labour. A two-stage determination process was set up, involving an initial determination by a specially trained Refugee Status Section of the Immigration Service, with an automatic right of appeal to an independent Refugee Status Appeals Authority. The Authority is composed of independent lawyers and a representative of UNHCR. Detailed terms of

reference, approved by Cabinet, regulate the composition, jurisdiction, functions and procedures of the Refugee Status Section and the Appeals Authority. An independent review of the refugee status area commissioned by the Minister of Immigration in 1992 led to the drafting of new terms of reference and the Appeals Authority, which came into force in August 1993. The review also led to other measures for improving and expediting the refugee status determination process, including allocation of increased resources.

144. Asylum seekers awaiting determination of their applications for refugee status are granted special assistance by the Government in the areas of employment, social welfare, health, education and legal aid for presentation of cases to the Refugee Status Appeals Authority. Those who are recognized as meeting the criteria for refugee status are almost invariably granted residence in New Zealand.

Article 6

145. The Office of the Race Relations Conciliator has continued during the period under review to follow the procedures, described in New Zealand's earlier reports to the Committee, for the handling of complaints under the Race Relations Act 1971.

146. The Race Relations Conciliator has noted that in some cases, matters are referred to the Office which are a cause for concern but, for various reasons are not appropriate for formal investigation, e.g. they fall outside the jurisdiction of the Race Relations Act 1971. If all the parties involved are willing to participate in a conciliation meeting, this is arranged with facilitation by a staff member of the Office.

147. The present Race Relations Conciliator, who took office in late 1992, places particular emphasis on the importance of conciliation and mediation in the conflict resolution process. The Office aims for a positive approach in the handling of complaints, and is concerned to avoid excessively legalistic procedures. Concern to carry out all their functions in a culturally appropriate manner has been a feature of the work of both the Race Relations Office and the Human Rights Commission during the period under review. Since 1991, a number of Maori staff from three branches of the Race Relations Office have formed Te Wahanga Maori, a group which provides support by meeting regularly to discuss the welfare of its membership and ensures that the Office delivers a quality service to Maori people. The Human Rights Commission in 1991 introduced a new procedure for the handling of complaints from Maori, which has been well received and effective. Initially all Maori complainants are offered the services of a Maori mediator. If this is accepted and the respondent is also Maori, both sides are offered the chance to have the complaint heard "informally" in a hui. If they choose this option, the hui is arranged, at which the complaint is discussed and an attempt made to settle the matter without its having to be referred back to the Commission for an opinion before settlement.

148. In 1992 the Human Rights Commission received a complaint in respect of the treatment of Maori pupils at Waitara High School. This complaint, the first of its kind under the Human Rights Commission Act, alleged that insufficient emphasis or priority was given to the needs of Maori pupils and

that the School Board had failed to honour its obligations under the Treaty of Waitangi. Following a year of negotiations, the dispute was settled with the Board agreeing to support measures to enhance the learning of Maori students and to honour the Treaty.

149. In the year ending 30 June 1991 a total of 135 complaints were investigated under all sections of the Race Relations Act. The reasons for the 53.4 per cent increase which this represented over the previous year were, however, essentially technical in nature (relating to the introduction of a new computer system). In 1991/92, a total of 131 complaints were investigated, and 142 in the year to 30 June 1993. As can be seen from table 6 in each of the annual reports of the Conciliator, complaints were lodged by individuals with a very wide range of ethnic or national backgrounds, as well as by various organizations in some cases. In general, the greatest number of complaints were received from Maori.

150. An analysis of complaints received is contained on pages 59-63 of the Race Relations Conciliator's report for 1991, pages 56-61 of the 1992 report, and pages 26-30 of the 1993 report (all attached). As noted in the report under article 5 above, section 5 of the Race Relations Act has become the focus for the majority of complaints, relating to discrimination in employment (since the repeal in 1989 of section 9 A, under which the greatest number of complaints was usually lodged).

151. In 1990/91, of the 135 complaints received, action was completed on 102. Thirty-seven of these (27.4 per cent) were substantiated being held to involve a contravention of the Race Relations Act; 32 (23.7 per cent) were found to have no substance; action was discontinued on 10 (7.4 per cent); and in 23 cases (17 per cent), substance could not be established. Investigation was continuing on 33 cases (24.5 per cent) at that time.

152. In 1991/92, investigation was completed into 81 of the 131 complaints received, while 47 remained under action. Thirty-two cases (25 per cent) were found to have substance; 27 (20 per cent) were found to have no substance; while in 15 cases (11 per cent) substance could not be established, and action was discontinued on 10 (8 per cent).

153. In 1992/93, 17 complaints (12 per cent) were found to have substance, 38 (26 per cent) had no substance, action was discontinued in 27 cases (19 per cent), while in 13 others (9 per cent) substance could not be established. Action was continuing on the remaining 47 cases out of the total of 142 for the year.

154. Apart from the adoption of the Human Rights Act 1993 (which maintains all the relevant provisions of the Race Relations Act 1971 and the Human Rights Commission Act 1977) and the guarantee of access to grievance procedures by all workers under the Employment Contracts Act 1991 (see para. 14 above), there are no new developments to report in the area of measures taken to ensure the right to seek reparation for any damage as a result of discrimination during the period under review.

155. Detailed information on the practice and decisions of the Race Relations Conciliator is contained in the report of his Office for the years ending June 1990, 1991, 1992 and 1993, attached as annexes 2, 3, 4, and 5.

Article 7

The New Zealand 1990 Commission

156. The commemoration during 1990 of the one hundred and fiftieth anniversary of the signing of the Treaty of Waitangi provided a focus for an extensive education programme about the significance of the Treaty for the harmonious development of New Zealand society. 1990 was also seen as a milestone year in the history of New Zealand for its wide range of anniversaries of other important events that had significantly influenced New Zealand's development, character and identity. A special commission, the New Zealand 1990 Commission, was set up to coordinate, initiate and promote activities to mark the Treaty of Waitangi Sesquicentennial and other anniversaries falling within the 1990 year.

157. The Commission adopted the following Mission Statement for New Zealand 1990:

> "To initiate activities which will encourage the participation of the maximum number of New Zealanders to:
>
> - highlight and celebrate the natural advantages of New Zealand;
> - increase our awareness and enjoyment of all the cultures which make up our society - the language, literature, music, art, and buildings;
> - illuminate and increase understanding and appreciation of alternative points of view and different cultural backgrounds;
> - encourage activities which will improve harmony, goodwill and tolerance within society to assist in building a better society for the future, thus improving the quality of life of all New Zealanders;
> - ensure that the Treaty of Waitangi has a central focus in 1990 and for society henceforth and thus to encourage much greater understanding of the Treaty - in particular to increase understanding of both the rights and responsibilities of the two parties which are bound together by the Treaty;
> - increase the opportunities for sharing and partnership between all New Zealanders;
> - encourage thinking about and planning for the next 50 years, and so lay a better foundation for the future."

158. Copies of the annual reports to Parliament of the 1990 Commission for the years ending March 1989, 1990 and 1991 are attached as annexes 14, 15 and 16.

By the end of the 1990 year, over 12,000 officially registered and recognised events had been held. In its 1991 report, the Commission noted that as a result of all these events, there was no doubt that a large proportion of the population had come to a greater appreciation and understanding of the role of the Treaty of Waitangi and, as a consequence, there was an increasing level of tolerance and understanding throughout the country of these important issues. The Commission also reported that one of the many successes of the year was the very high degree of involvement of the various ethnic communities in New Zealand. As a result, the Commission felt that these groups had become much more a part of the New Zealand community and more able to share insights of their cultures with all New Zealanders and, it was hoped, to feel more at home in their adopted country.

Education and teaching

159. Reference may also be made to the report under article 2 above for information on education programmes for Maori, Pacific Islanders and members of other ethnic minorities.

160. New Zealand society has been undergoing rapid changes in the past decade, on a number of different levels which interconnect. On one level, economic restructuring, including radical reform of the welfare state, has placed new stresses on vulnerable groups. On another level, the move towards a bicultural society that is not based on the assimilation of minority cultures has been difficult for some to understand. Progress on giving effect to the principles of the Treaty has been significant, both in terms of the settlement of claims and more broadly in making the Treaty a focal point of national identity. As noted above, 1990 saw a real growth in understanding of Treaty issues. But at the same time, a degree of uncertainty and confusion remains (particularly, it may be said, among the non-Maori majority of the population) both as to the philosophical underpinnings of Treaty issues and the practical implementation of specific claims. In addition, the increase in numbers of immigrants from Pacific Islands and more recently further afield, especially Asia, has strengthened the multicultural characteristics of the society, adding another dimension to the complex debate on a national identity for New Zealand. In all of this, a major role has been identified for education as the means of ensuring New Zealand's future development as a healthy society gaining strength from its diversity.

161. The New Zealand Curriculum Framework (written in both English and Maori), to which reference has been made under article 2 above, represents an important step towards meeting through the education system the challenges posed by these trends. It takes account of the findings of curriculum reviews of the 1980s. Among other things, these sought a more equitable curriculum, particularly for those disadvantaged by the existing system; they acknowledged the significance of the Treaty of Waitangi and its implications for New Zealand society; and they recommended an increased emphasis on culture and heritage, to reflect a growing awareness of the bicultural identity of New Zealand society and its multicultural composition.

162. These factors are all reflected in the Curriculum Framework. Among other things, it also aims to promote learning about the cultures and languages of those regions with which New Zealand has significant trade and other

relationships, such as in Asia and the Pacific; and to encourage students to develop responsible attitudes towards global concerns. The Framework addresses the attitudes and values upon which teaching is to be based; "non-racism" is stated to be one of the values which the school curriculum will reinforce.

163. In accordance with the requirements of the Race Relations Act and the Human Rights Commission Act, the Race Relations Office and the Human Rights Commission have continued their extensive programmes of public education and information, including the ongoing development of contacts with the formal education sector at all levels. The Race Relations Office has been able to meet an increasing demand for education services, particularly on Treaty of Waitangi issues. Information on other aspects of the education programme, such as school visits, student exchanges, youth forums, and teacher liaison groups, has been provided in the previous report and remains relevant, although some activities have had to be reduced for budgetary reasons.

164. A more detailed account of the Education Programme of the Race Relations Office is to be found in its annual reports for the period under review, which are attached as annexes.

165. Information about programmes to promote respect for and observance of human rights through education and publicity is also contained in New Zealand's Core Document.

Culture

166. Reference may also be made for information relevant to this section to the report under article 2 above, particularly in relation to the Ministry of Pacific Island Affairs, the newly established Ethnic Affairs Service, and to language issues.

167. The roles of the Ethnic Affairs Service include fostering the maximum potential contribution of minority ethnic groups to New Zealand society, and enabling members of minority ethnic groups to identify with their ethnicity as well as with New Zealand. The Service has established contacts with the Race Relations Office and has collaborated with it in the publication of the first National Ethnic Communities Directory.

168. The Ministry of Pacific Island Affairs, for its part, makes a significant contribution to the development of multicultural understanding through its work promoting information about Pacific Island cultures in New Zealand.

169. In January 1991, by Order in Council, the Government established New Zealand's first Ministry of Cultural Affairs, following favourable public response to a discussion paper. Its functions are to provide policy advice to Government on issues and priorities across the cultural sector and to disburse payments on behalf of the Crown to delivery agencies. Two of the major issues on which the Ministry has provided advice relate to the new national museum, and legislative proposals for a new Arts Council of New Zealand, outlined below.

170. In 1992 the National Art Gallery, Museum and War Memorial Act 1972 was repealed and a new national museum incorporating the former museum and art gallery was established. The Museum of New Zealand Te Papa Tongarewa Act 1992 provides that in performing its functions the Museum's Board shall have regard to the ethnic and cultural diversity of the people of New Zealand, and the contributions they have made and continue to make to New Zealand's social and cultural life. The Board must endeavour to ensure both that the Museum expresses and recognises the significance of Maori, European and other major traditions and cultural heritages, and that it provides the means for every such culture to contribute effectively to the Museum as a statement of New Zealand's identity.

171. The Queen Elizabeth II Arts Council of New Zealand Act 1974 has been reviewed and new legislation has been introduced into Parliament and considered by Select Committee. The Arts Council of New Zealand Bill would establish, under a single policy council, two boards of equal status for the delivery of public support for the arts. One board would be specifically responsible for support of Maori arts and the other for the arts of all New Zealanders. This structure is intended to better reflect the important role of Maori in the arts of New Zealand than is the case under current legislation. Three important principles set down in the Bill require that the Arts Council:

(a) Recognise the cultural diversity of the people of New Zealand;

(b) Recognise in the arts the role of Maori as tangata whenua;

(c) Recognise the arts of the Pacific Island people of New Zealand.

It is likely that the Bill will be enacted during 1994. Information on the final shape of the new legislation will be included in New Zealand's next periodic report to the Committee.

International Year for the World's Indigenous People

172. Te Puni Kokiri, the Ministry for Maori Development, was designated the Government's lead agency for observance of 1993 as the International Year for the World's Indigenous People. A Partnership Committee was established comprising Maori and government representatives to plan events and disburse funding for community initiatives relating to the Year.

173. Several major international indigenous conferences were held in New Zealand during 1993 to mark the Year, including a women's conference, a spiritual leaders' conference and a cultural and intellectual property rights conference. The intellectual property rights conference was the first ever such conference and attracted delegates from around the world. These events were organized by Maori, with some government funding, and information services from Te Puni Kokiri. Such activities have raised the profile of Maori concerns and aspirations among non-Maori New Zealanders, and highlighted their commonality with those of other indigenous peoples.

174. Education kits about the Year were distributed by Te Puni Kokiri with the aim of raising awareness about the year and its important theme: "Indigenous People - a New Partnership". The kit places particular emphasis on Maori issues and includes a range of information and materials for teachers and students with a strong focus on health, education and environmental issues.

Information

175. New Zealand On Air was set up by the Broadcasting Act 1989 to collect broadcasting fees to fund the production of New Zealand programmes for radio and television. A network of 28 Maori radio stations have been established, the majority of which are funded from the Public Broadcasting Fee. The main purpose of these stations is to promote Maori language and culture. Policy objectives for the stations are set by the local iwi taking into account the needs of their people. Most iwi radio stations have a Maori language content of about 40 per cent, or much higher in areas where there is a large Maori population. A new Maori broadcasting funding agency (Te Mangai Paho) was established in July 1993 to promote Maori language and culture through the provision of funding for broadcasting. Te Puni Kokiri has developed a comprehensive Maori radio training package to underpin the growth of a Maori radio industry.

176. New Zealand On Air has a responsibility under the Broadcasting Act "to ensure the range of broadcast is available to provide the interest ... of minorities in the community, including ethnic minorities". Access Radio, the community radio network described in paragraph 253 of the previous report, has continued to provide ethnic and community groups in New Zealand's four main cities with an opportunity for regular broadcasts in their own languages. Generally speaking, it has 60 per cent of its running costs funded by New Zealand On Air. The remaining 40 per cent of the funding comes from sponsorship or from the purchase of air time by community and ethnic groups.

177. National Radio broadcasts every weekday evening a half hour of news in six different Pacific Island languages (Cook Island, Niuean, Fijian, Samoan, Tokelauan and Tongan). A Pacific Island radio station has recently been established in Auckland.

178. The role of the media in race relations has been an area of particular focus for the Race Relations Office during the review period. In late 1990, the Conciliator commissioned an in-depth survey of the extent to which the mainstream New Zealand media are willing and able to report adequately on Maori issues. This revealed serious gaps in the understanding among news executives of the complexity of the issues concerned and low levels of familiarity with Maoritanga, and with Maori society more generally. News executives admitted these deficiencies and agreed that action was needed to address them. As a result, a new training package on Maori issues was developed by a major newspaper company for use by the Journalists' Training Board. A number of media hui for practising journalists have been organised by the Race Relations Office during the period under review, as part of the wide range of contacts it has sought to develop with the media. In addition, an award for race relations reporting has since 1992, with private sector

sponsorship, been included among the Qantas Press Awards - a step welcomed by the Conciliator as reinforcing the perception that there is a constructive and positive side to the reporting of racial issues. The Conciliator in 1992 noted an encouraging improvement in the overall performance of the media on racial issues, and fewer instances of flagrant misrepresentation.

NIUE AND TOKELAU

179. Reference should be made to New Zealand's previous reports which explain the situation with respect to Niue.

180. No amendments were made to the Niue Race Relations Ordinance 1972 in the period under review.

181. No proceedings were instituted in Niue under the relevant legislation in the period under review.

182. Reference should be made to previous New Zealand reports for the situation with respect to Tokelau. For further background information, reference should be made to the report of the Administrator of Tokelau which is attached as annex 17.

183. Tokelau is moving through a phase of significant constitutional change which is giving its people a greater capacity to govern themselves.

184. The 1,600 people of Tokelau live on three widely separated atolls. In each atoll/village, the focus is on caring for individual members of the community in a communal manner. Given the inclusiveness of Tokelau society, and the homogeneity of its people, racial discrimination is neither present, nor a matter of every day concern.

185. The present focus of constitutional change is producing a first ever national level administration on the atolls of Tokelau. In due course, as systems and personnel become better established, the new Government of Tokelau will be able to consider what steps Tokelau might take in light of the obligations accepted by New Zealand on its behalf under the Convention.

Glossary of Maori terms

Hapu	sub-tribe
Hui	meeting
Iwi	tribe
Ka Awatea	(in the process of) a new dawn
Kaitiakitanga	the exercise of guardianship
Kura kaupapa Maori	Maori language immersion school
Manu tukutuku	pilot project
Manatu Maori	Ministry of Maori Affairs
Rangatiratanga	chiefly authority
Tangata whenua	people of the land
Taonga	treasures (tangible and intangible)
Te kohanga reo	Maori immersion language nest (pre-school)
Te Puni Kokiri	Ministry of Maori Development
Te reo Maori	the Maori language
Waahi tapu	sacred sites
Whanau	family
Whare kura	Maori version secondary school

List of annexes*

Annex No.	Title
1	Ethnic Groups in New Zealand: a Statistical Profile (1993, Department of Internal Affairs, Wellington)
2 - 5	Annual Reports of the Human Rights Commission and the Office of the Race Relations Conciliator (1990, 1991, 1992, 1993, Wellington)
6	Human Rights Act 1993
7	Mauriora Ki Te Ao: an Introduction to Environmental and Resource Management Planning (1993, Te Puni Kokiri)
8	Treaty of Waitangi (Fisheries Claims) Settlement Act 1992
9	Te Ture Whenua Maori/Maori Land Act 1993
10	The New Zealand Curriculum Framework (1993, Ministry of Education, Wellington)
11	The Ten Point Plan for Maori Education 1993/94 (1993, Ministry of Education, Wellington)
12	Aotoereo: Speaking for Ourselves. A discussion on the development of a New Zealand languages policy. (Two parts) (1992, Ministry of Education, Wellington)
13	Notes on New Zealand's Housing Reforms: 1991-93 (1993, Ministry of Housing, Wellington)
14 - 16	Reports of the New Zealand 1990 Commission (1989, 1990, 1991, Wellington)
17	Report of the Administrator of Tokelau

---

* Available for consultation in the files of the Centre for Human Rights.